IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

WP(C).No. 11001 of 2004(I)

PETITIONERS:

P.M.ABDUL SAMAD, DEPUTY DIRECTOR (QIP),
MELAPPURAM RESIDING AT `AZAD MANZIL', THEVANNUR.
P.O., AYOOR VIA, KOLLAM.

BY ADV. SRI.P.SANTHOSH KUMAR (PANAMPALLI NAGAR).

RESPONDENTS:
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1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GENERAL EDUCATION (C) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
2. **THE DIRECTOR OF PUBLIC INSTRUCTION, THIRUVANANTHAPURAM.**
3. **THE ACCOUNTANT GENERAL (A & E)/AUDIT), KERALA, THIRUVANANTHAPURAM.**

BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/02/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.11001/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE G.O. RT. 3436/02/G. EDN. DTD. 03/10/2002.

EXT.P.2: COPY OF THE MEMO OF CHARGES ISSUED BY THE R.1. NO. 11052/C3/2002/G. EDN. DTD. 30/04/2003 TO THE PETITIONER.

EXT.P.3: COPY OF THE EXPLANATION OF THE PETITIONER TO THE .1. DT. 11/06/2003.

EXT.P.4: COPY OF THE ORDER G.O. (RT). NO. 2904/2003/G. EDN. DTD. 22/07/2003.

EXT.P.5: COPY OF THE G.O. (RT). NO. 3277/03/EDN. DT. 16/08/2003.

EXT.P.6: COPY OF THE G.O. (RT). NO. 4789/2003/G. EDN. DT. 21/11/2003.

EXT.P.7: COPY OF THE LETTER OF THE R.2. TO THE R.3. NO. D3-77589/03/DPI DTD. 09/12/2003.

EXT.P.8: COPY OF THE LETTER OF THE R.2. TO THE R.1. NO. D3/77589/03 DT. 19/01/2004.

EXT.P.9: COPY OF THE ORDER OF THE R.2. BEARING NO. D3/153576/2002/DPI DT. 10/10/2003.

EXT.P.10: COPY OF THE ORDER OF THE R.2. BEARING NO. D3/77588/03/DPI DT. 27/10/2003.

EXT.P.11: COPY OF THE GOVT. ORDER G.O. RT. 276/2001/G. EDN. DTD. 25/06/2001.

EXT.P.12: COPY OF THE COMMUNICATION ISSUED BY THE ACCOUNTS OFFICER OF THE OFFICE OF THE ACCOUNTANT GENERAL, KERALA, NO. GE. 27/D/A3-13/331/1431 DT. 06/07/2004.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P.(C) No.11001 of 2004

Dated 21st February, 2007.

J U D G M E N T

The challenge is on Ext.P6 Government Order dated 21.11.2003, to the extent it treats the period of suspension of the petitioner as eligible leave. The period of suspension is from 3.10.2002 to 21.7.2003. As per Ext.P6, taking note of the appreciable conduct on the part of the petitioner, the proposed disciplinary action has been dropped. However, the period of suspension was directed to be treated as eligible leave. Except for the statement that "the period of suspension will be treated as eligible leave", there is no consideration as to why the period is not treated as duty, despite the appreciable conduct of the petitioner. That apart, according to the petitioner, as per Ext.P11 Government Order dated 25.6.2001, the petitioner had been completely exonerated of the charges levelled against him. Thus it is fairly clear that there is no proper application of mind with regard to the exercise of power under Rule 56 of Part III K.S.R. with regard to the regularisation of the suspension period. I quash Ext.P6 to the extent of the regularisation of the suspension

period with a direction to the Government to consider the matter afresh with notice to the petitioner, on proper application of mind on all relevant aspects and to pass appropriate orders within three months from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

W.P.(C)No. of 2002

J U D G M E N T

Dated 21st February, 2007.